IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 603 (MS) OF 2006

1. Radhe Shyam,
   S/o Shri Baba Singh,
2. Jaswant Singh,
   S/o Shri Gulzar Singh,
3. Kulwant Singh,
   S/o Mangal Singh,

All residents of Mohalla Pakka Kot, Tehsil Kashipur, District-Udham Singh Nagar. .....Petitioners.

Versus

1. Civil Judge, Senior Division, Udham Singh Nagar.
2. Addl. District Judge, Fast Track Court, Udham Singh Nagar.
3. Nirmal Singh, S/o Shri Kharak Singh, R/o Village Kachnal Gazi, Tehsil Kashipur, District-Udham Singh Nagar. .....Respondents.

Dated: 19.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Anurag Bisaria, Advocate for the petitioner and Standing Counsel for the respondents no. 1 and 2.

By the present writ petition, the petitioner has prayed for setting aside the order dated 15.02.2006 passed by the Civil Judge, Senior Division, Udham Singh Nagar in Misc. Case No. 4 of 2005 "*Nirmal Singh Vs. Radhe Shyam and others*" by which the application under order 9 Rule 13 of the C.P.C. has been allowed.

I find no illegality in the order passed by the Civil Judge, Senior Division, Udham Singh Nagar in Misc. Case No. 4 of 2005 while allowing the restoration application.

As prayed liberty is given to the petitioners to move an application under Order 39 Rule 1 of the Code of Civil Procedure in the suit itself and the same shall be decided on its own merits. However, any order of status quo shall not prejudice the Presiding Officer in deciding the injunction application independently.

However, the suit filed by the petitioners is directed to be disposed of within a period of six months. During this period, the parties are directed to maintain status quo.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

19.05.2006
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